

Remarks

This is in response to the Final Office Action dated August 19, 2009. Applicant is also filing a Request for Continued Examination (RCE) concurrently herewith.

Claim 1 has been canceled. Claim 32 has been re-written in independent form including the limitations of claim 1 as it stood prior to the current 35 U.S.C. 112 rejection (i.e. as of our September 19, 2008 response and as of the December 22, 2008 Official Action in which claim 1 was not rejected under 35 U.S.C. 112). Claims 31, 33, 34 and 36 have been amended to depend from independent claim 32. Claim 37 has been similarly re-written in independent form. Claims 38-41 have been newly added to depend from independent claim 37.

Both in the current Office Action and that of December 22, 2008, claims 32 and 37 were rejected.

"Claims 32 & 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinn (US-6655585-B2) in view of Collberg et al. (US-6668325-B1) and in further view of Chow et al. (US-6779114-B1)."

However, we respectfully submit the Chow reference is a 102(e) reference, and is disqualified as prior art under 35 U.S.C. 103(c) as the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person, namely the current assignee, Cloakware Corporation.

Statement under 35 U.S.C. 103(c)

We hereby state the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.

Accordingly, we respectfully submit that the rejection to claims 32 and 37 are invalid, and indeed claims 32 and 37 are patentable over the cited art.

Accordingly, we submit all of the claims are now allowable, and a Notice of Allowance is hereby requested.

The Commissioner is hereby authorized to charge any additional fees, and credit any over payments to Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP.

Respectfully submitted,

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